IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

CRP.No. 709 of 2007(F)

AGAINST THE ORDER DATED 23/06/2007 IN CA 85/07-08 IN LAR.301/2000 OF ADDL.SUB COURT, NORTH PARAVUR

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REVN. PETITIONER/DECREE HOLDERS/CLAIMANTS:

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1. **KUNJUMON, S/O VARGHESE, AGED 46 YEARS, KOORANTHAZHATHUPARAMBIL, KEEZHPARIYARAM, ERNAKULAM DISTRICT.**
2. **PALSON, S/O VARGHESE, AGED 42 YEARS, KOORANTHAZHATHUPARAMBIL, KEEZHPARIYARAM, ERNAKULAM DISTRICT.**
3. **AMMINI, D/O VARGHESE, AGED 51 YEARS, KOORANTHAZHATHUPARAMBIL, KEEZHPARIYARAM, ERNAKULAM DISTRICT.**
4. **MARY, D/O VARGHESE, AGED 49 YEARS, KOORANTHAZHATHUPARAMBIL, KEEZHPARIYARAM, ERNAKULAM DISTRICT.**
5. **SHAJAN.P, S/O BABY, AGED 41 YEARS, PARAMBATH, AVANAMCODE, ERNAKULAM DISTRICT.**
6. **RAJU, S/O POULOSE, AGED 47 YEARS, AREEKAL, AVANAMCODE, ERNAKULAM DISTRICT.**

BY ADV. SRI.K.J.KURIACHAN,
SRI.M.S.PATTALI.

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, ERNAKULAM.**

C.R.P. NO. 709/2007:

**2. KOCHI INTERNATIONAL AIRPORT SOCIETY,
REPRESENTED BY IT'S MANAGING DIRECTOR,
MARINE DRIVE, KOCHI-31.**

**BY ADV. SRI.N.N.SUGUNAPALAN, SC, KIAS LTD.,
ADV. SMT.T.N.GIRIJA, SC, COCHIN I AIRPORT LT,
GOVERNMENT PLEADER SMT. R. BINDU.**

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/08/2007,ALONG WITH CRP NO. 710/2007 AND CONNECTED CASES,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.Nos: 709,710,711 &
713 of 2007

Dated this the 6th August, 2007.

O R D E R

All these revision petitions are preferred against the order of the Land Acquisition Judge in not entertaining application for issuance of cheques. The revision petitioners are claimants B to G in the land acquisition case. Claimant A was the mother of B to E. Before passing of the award she died. But unfortunately without recording her legal representatives or without reporting the factum of death of her an award has been passed by the land acquisition court. Cheque applications were filed and then the court observed "since decree has been passed after the death of a claimant the question of allowing the petitioner to draw compensation in the capacity as legal heir does not arise at all" and therefore dismissed all the applications. Unlike other cases, here claimants A to E were there on the party array as the legal representatives of deceased Varghese whom the property belonged. So even on the date of death of Sosamma other legal representatives were on record as claimants B to E before the court. The court should have, if an application was brought to the court or the factum of death was intimated, recorded and

proceeded to pass an award. But unfortunately by mistake or an omission it was not done. So, what is required in this case is to only correct the mistake that has crept in and it is a settled principle of law that when the cause of action survives and when there are more than one plaintiffs there will not be an abatement as such. Therefore, the method to correct the mistake is by filing an application before the land acquisition court to reopen the case and then correct the mistake and pass an award accordingly. I think the State Government cannot have also any serious objection in the matter. Therefore, I dispose of the civil revision petitions with a direction to the revision petitioners to file an application for review and reopening of the award, with a petition to record the legal representatives of deceased claimant who are already there on record and then pass an award. Since the amount involved is about Rs.5 lakhs each and as there is loss of interest for the parties I direct the court below to consider those applications when filed, at the earliest, dispose of the matter and then permit the present petitioners to file cheque applications and dispose of it

in accordance with law. Civil revision petitions are disposed of accordingly.

M.N.KRISHNAN
Judge

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